APPEAL NO. 040696
FILED MAY 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on February 18, 2004. The hearing officer determined that the appellant's (claimant) _____, compensable injury does not extend to nor include grade IV chondromalacia lateral compartment, macerated tear lateral meniscus, or loose bodies, and that the claimant did not have disability resulting from the _____, compensable injury. The claimant appealed, asserting legal and factual error on the part of the hearing officer. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The claimant had the burden to prove the extent of his compensable injury and that he had disability. Upon review of the claimant's appeal, it is obvious that he is not satisfied with the manner in which the hearing officer gave weight to the medical evidence. There is conflicting evidence in this case, including as it relates to the actual mechanism of the injury. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). The finder of fact may believe that the claimant has an injury, but disbelieve that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by medical evidence where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. Our review of the record reveals that the hearing officer's extent-of-injury and disability determinations are supported by sufficient evidence and that they are not so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb those determinations on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Finally, the claimant's appeal goes on at some length regarding "sole cause," "burden of proof," and mischaracterizing the actual injury as a question of extent. Based upon our review of the medical evidence in this case, it is clear that the claimant had substantial preexisting problems with his left knee. The question then became whether or not the mechanism of injury aggravated the conditions, and to what extent. Given the conflicting medical opinions in this regard, and the fact that more than one mechanism of injury is described in the various medical records, we cannot say that the

hearing officer erred as a matter of law by misplacing the burden of proof on any of the disputed issues.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **BRITISH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CHARLES HARDY**
**3535 TRAVIS, SUITE 300**
**DALLAS, TEXAS 75204**.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Veronica L. Ruberto
Appeals Judge